

Appl. No. 09/853,160  
Amdt. dated September 4, 2003  
Reply to Office Action of April 1, 2003

## REMARKS

Applicants respectfully request reconsideration followed by allowance.

Applicants have presented some clerical edits to claims but have endeavored to retain the claim scope.

Claims 1 and 2 are presently elected and claims 3 to 8 currently are withdrawn from consideration. It would be greatly appreciated if the Examiner would reconsider and re-join claims 3-8. Failing favorable reconsideration and re-joinder, the non-elected claims may be canceled by an Examiner's amendment so an allowance may issue as to claims 1 and 2.

Claims 1 and 2 define novel, unobvious inventions over the cited combination of the Goto reference (U.S. Patent No. 6, 342,176) and the Sato reference.

Applicants respectfully, but earnestly, submit there is no *prima facie* case of obviousness.

The Examiner "bears the initial burden, on review of the prior art . . . , of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). A rejection cannot be predicated on the mere identification of individual components of claimed limitations. There must be evidence that "a skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998); see also *In re Werner Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000). "[I]t is incumbent upon the examiner to identify some suggestion to combine the references or make the

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modification." Ex parte Askman, Appeal No. 96-1548 (June 10, 1999) at page 5, quoting In re Mayne, 104 F.3d 1339, 1342 (Fed. Cir. 1997).

Here, Applicants respectfully submit that the references would not have been combined as proposed in the Office Action, and even if they would have been combined, which is not conceded, their combination would not have suggested the present claimed invention to a person of ordinary skill in the art.

First, Applicants suggest the Examiner may have mistakenly construed the Goto et al. reference and respectfully request the Examiner to reconsider the rationale in the Office Action. It would appear from the Office Action that the Examiner considers the Goto et al. reference to disclose a door trim panel (see Figure 7) containing a speaker grille with a plurality of holes (see Figure 7, reference number 452). It would also appear that the Examiner considers Figures 7 and 8 in the Goto et al. reference to show that a resin molding contains a base portion (see Figure 8, reference number 30) in which the speaker grille is formed and surrounded by the base portion (see Figure 7, reference numbers 452 and 30). However, the Examiner went astray with the unsupported statement "[t]he base portion formed by propylene foam (Column 6, lines 28-31 and lines 36-38)" because it is demonstrably incorrect.

Upon review, the cited passages at column 6 at lines 28-32 in the Goto et al. reference actually relate to Figures 4 and 5, not Figures 7 and 8. The passage pertains to an instrument panel 4 comprising a resin part 3 entirely formed from a synthetic resin and a skin 2 on the top surface of the instrument panel. In fact, the passage at lines 28-32 reads "[t]he skin employed is a three-layered skin consisting of a top layer 201 . . . , an inner layer 202 made from polypropylene foam, and a substrate 203 . . . . The synthetic resin for the resin part 3 is polypropylene." There is no disclosure nor a suggestion of any polypropylene foam.

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Still further, with reference to Figure 7 and Figure 8 in the Goto et al. reference, the Examiner is urged to review column 6, lines 49-58 for an explanation of the speaker grille integrated door trim. While the Goto et al. reference may refer to a door trim with a resin part 20, there is no disclosure nor a suggestion of resin part 30 being either formed from a foamable synthetic resin or being a foamed synthetic resin.

The Examiner has sought to remedy the deficiencies in the primary Goto reference through its combination with the Sato et al. reference with (U.S. Patent No. 5,793,002). Applicants submit the secondary reference does not overcome the above-discussed shortcomings in the primary reference.

Applicants respectfully request the Examiner to reconsider the rationale in the Office Action inasmuch as the interpretation of the secondary reference to Sato et al. appears mispalced. According to the Office Action, the "Sato et al. [reference] discloses that it is known in the art to provide a foam layer in a speaker, where the foam is polypropylene having a density between 0.32 to 0.93 g/cm<sup>3</sup> with expansion ratios from 1 to 2.90 (Figure 10)." However, this is an overstatement at best. The passage relates to a vibrating diaphragm and not a speaker grille.

When fairly considered in context, Applicants respectfully assert the product in the Sato et al. reference differs considerably from a speaker grille, and also differs in approach and function from the door trim according to the Goto et al. reference. A loudspeaker vibrating diaphragm disclosed by the Sato et al. reference is not a speaker grille. A skin layer in Sato et al. reference neither describes nor would it have suggested a speaker grille. Thus, the Sato et al. reference would not have taught the following features of the claimed invention (1) the presence of a speaker grille integrated with a base portion, and (2) an average expansion ratio of the speaker grille of 1 to 1.3 times.

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Accordingly, (a) the Goto et al. reference does not disclose nor would it have suggested the features asserted in the Office Action; (b) the Sato et al. reference does not disclose nor would it have suggested the features asserted in the Office Action; (c) the Goto et al. and Sato et al. references would not have been combined; and (d) even if the references would have been combined, which is not conceded, they still would not have suggested the present claimed inventions to a person of ordinary skill in the art.

Having addressed all matters, Applicants awaits a Notice of Allowance.

Respectfully submitted,

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